

1 MICHAEL C. MILLS, ESQ.
2 Nevada Bar No. 003534
3 BAUMAN LOEWE WITT & MAXWELL
4 3650 N. Rancho Dr., Ste. 114
5 Las Vegas, Nevada 89130
6 Telephone No.: 702-240-6060
7 Fax No.: 702-240-4267
8 Email: mmills@blwmlawfirm.com

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10 Attorneys for Defendant
11 Century National Insurance Company
12

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 RODNEY HERMANSON, an individual,

CASE NO: 2:19-cv-00656-RFB-EJY

16 Plaintiff,

17 vs.

18 CENTURY NATIONAL INSURANCE
19 COMPANY, a foreign insurance
20 company, DOES 1-100, and
21 ROES 1-X, inclusive,

22 Defendants.

23 **STIPULATION OF CONFIDENTIALITY AND PROTECTIVE ORDER**

24 The parties, by their respective counsel, hereby agree to this Stipulation of
25 Confidentiality and Protective Order (this "Order"). To expedite the flow of discovery
26 material, facilitate the prompt resolution of disputes over confidentiality, protect material
27 entitled to be kept confidential, and ensure that protection is afforded only to material
28 entitled to such treatment, the parties agree as follows:

29
30 **I. DEFINITIONS**

31 A. "Confidential Information" is defined herein as a trade secret or other confidential
32 research, evaluation, development or commercial information or material, or

1 material that solely involves other parties, the disclosure of which is likely to
2 prejudice the right of one or more parties or non-parties hereto, including
3 information concerning proprietary research and development; business and
4 marketing strategy; regulatory compliance and communication; financial results
5 and projections; employee records; company policies and procedures; and
6 similar documentation which is designated as "Confidential" by the Producing
7 Party (or, in the case of medical records by the party securing the records),
8 whether it be a Document, information contained in a Document, information
9 revealed during a deposition, information revealed in an interrogatory answer,
10 etc. In construing the scope of what constitutes "Confidential Information" as
11 defined herein, reference is to be made to applicable case law regarding
12 confidential or protected material.

- 13 B. "Stamped Confidential Document" means any Document which bears the mark
14 "CONFIDENTIAL"— or which shall otherwise have had the mark recorded on it in
15 a way that brings its attention to a reasonable examiner – to signify that it
16 contains Confidential Information subject to protection under this Order.
17 C. "Document" means all written, recorded, or graphic material, whether produced
18 or created by a party or another person, and whether produced pursuant to
19 subpoena, by agreement, or otherwise. Interrogatory answers, responses to
20 requests for admission, deposition transcripts and exhibits, pleadings, motions,
21 affidavits, and briefs that quote, summarize, or contain Confidential Information
22 may be accorded status as a Stamped Confidential Document, but, to the extent
23 feasible, shall be prepared in such a manner that the Confidential Information is
24 bound separately from that not entitled to protection.
25 D. "Producing Party" means the party that produced the Confidential Information.

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1 **II. NON-DISCLOSURE OF DOCUMENTS CONTAINING**
2 **CONFIDENTIAL INFORMATION**

- 3 A. Except with the prior written consent of the Producing Party, or as provided in
4 this Order, Confidential Information and Stamped Confidential Documents may
5 not be disclosed to any person.
- 6 B. A Producing Party may, in its discretion, disclose its Confidential Information
7 and/or designated Stamped Confidential Documents to any person.
- 8 C. Confidential Information and Stamped Confidential Documents may be disclosed
9 to:
10 (1) The parties, including all employees, agents, third party administrators,
11 insurers and investigators, as well as counsel of record for the parties in
12 this action, including the partners, associates, "contract attorneys,"
13 secretaries, paralegal assistants, and employees of such counsel, to the
14 extent reasonably necessary to render professional services in the
15 litigation.
16 (2) Judges, court reporters, court personnel, or videographers present at trial,
17 hearings, arguments, or depositions held in this matter.
18 (3) Other persons who may be designated by written consent of the
19 Producing Party or pursuant to a court order.
- 20 D. Subject to sub-paragraph E, Confidential Information and Stamped Confidential
21 Documents may also be disclosed to:
22 (1) Persons noticed for depositions or designated as trial witnesses, to the
23 extent reasonably necessary to prepare such persons to testify;
24 (2) Consultants or experts retained for the purpose of assisting counsel of
25 record in this action; and

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(3) Third-party contractors retained for the purpose of organizing, filing, coding, converting, storing, or retrieving data or designing database programs for handling Documents.

E. Before disclosing Confidential Information or Stamped Confidential Documents to any person pursuant to paragraph D, the party proposing such disclosure shall show a copy of this Order to such person, and he/she shall sign the Undertaking attached as Exhibit 1.

F. Before disclosing Confidential Information or Stamped Confidential Documents pursuant to paragraph D to any person who is a competitor (or an employee of a competitor) of the Producing Party, the party proposing to make such disclosure shall give at least twenty-one (21) days advance notice in writing, which shall identify the person(s) to whom the disclosure will be made and a detailed explanation of why disclosure to such person(s) is necessary, to counsel for the Producing Party. If, within fourteen (14) days, after receiving advanced notice, the Producing Party objects in writing to the proposed disclosure, the disclosure shall not be made until the parties have resolved the matter or the court has ruled on it. The party seeking to disclose any Confidential Information without obtaining an Undertaking as provided for as Exhibit 1 of this Order shall have the obligation to go forward and obtain approval from the court prior to making to make such a disclosure. At any hearing regarding a dispute over the confidential nature of any information designated as Confidential Information, the Producing Party which has identified the information as Confidential Information shall have the burden to prove by a preponderance of evidence that the confidential nature of any such information.

G. A recipient of Confidential Information and/or Stamped Confidential Documents shall exercise due care to restrict access to those persons described in II(C)(1). Any summary, copy of, or excerpt from a Stamped Confidential Document shall be subject to this Order to the same extent as the Stamped Confidential

1 Document itself, and must be labeled as Confidential. A recipient shall not
2 duplicate any Stamped Confidential Document or excerpt therefrom except for
3 use as working copies and for filing in court.

4

5 **III. DECLASSIFICATION OF STAMPED CONFIDENTIAL DOCUMENT**

6 A party may challenge, by motion, the propriety of a confidential designation at
7 any time within 90 days of the production of the Confidential Information and/or
8 Stamped Confidential Document. If a Document is declassified either by agreement of
9 the parties or by a court order, the terms of this Order will no longer apply to future
10 handling or production or dissemination of declassified Documents.

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12 **IV. CONFIDENTIAL INFORMATION IN DEPOSITIONS**

13 A. A deponent, other than a current employee of the Producing Party, shall be
14 shown a copy of this Order and shall be asked to sign the undertaking attached
15 as Exhibit 1 before being shown or examined about Confidential Information
16 and/or Stamped Confidential Documents, except that any deponent may be
17 shown and examined about Stamped Confidential Documents or other
18 Documents without being shown this Order and being asked to sign the
19 undertaking if the Document reflects that the deponent was the author or
20 recipient. Regardless of whether a deponent signs the undertaking, this Order
21 shall apply to any deponent who is shown or examined about Confidential
22 Information and/or Stamped Confidential Documents.

23 B. Parties and deponents, may, within 45 days after receiving the deposition
24 transcript from the court reporter, designate pages of the transcript (and exhibits
25 thereto) as confidential by underlining or otherwise designating the portions of
26 the pages that are confidential. The parties and the court reporter shall
27 thereafter mark such pages in all copies of the transcript with the following
28 legend, "CONFIDENTIAL – SUBJECT TO CONFIDENTIALITY ORDER." Upon

1 expiration of the 45-day period, the entire deposition will be treated as subject to
2 this Order. If the deposition transcript is filed and a timely designation made, the
3 confidential portions and exhibits shall be filed under seal.

4

5 **V. SUBPOENA FOR STAMPED CONFIDENTIAL DOCUMENTS**

6 If Stamped Confidential Documents or other Documents containing Confidential
7 Information are subpoenaed by any person, court, administrative or legislative body, the
8 party to whom the subpoena is directed shall not, to the extent permitted by applicable
9 law, provide or otherwise disclose such Documents or information until twenty-one (21)
10 days after giving counsel for the Producing Party notice in writing of the subpoena,
11 accompanied by a copy of the subpoena. If the Producing Party objects to the
12 subpoena, the party to whom the subpoena is directed agrees not to produce
13 Documents in response to it until the resolution of the objection by the appropriate court.

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15 **VI. FILING AND USE OF STAMPED CONFIDENTIAL
16 DOCUMENTS FOR PRETRIAL PURPOSES**

- 17 A. Stamped Confidential Documents shall be filed under seal and shall remain
18 sealed in the Clerk's office so long as they retain their status as Stamped
19 Confidential Documents.
- 20 B. To the extent that any party wishes to use Stamped Confidential Documents
21 during a hearing in this action, such party agrees to notify the Producing Party
22 and the court at least fourteen (14) days in advance of the hearing so that the
23 hearing can be conducted *in camera*, and agrees to submit any Stamped
24 Confidential Documents to the court for its *in camera* inspection. In the event
25 that, during any hearing in which a party submits Stamped Confidential
26 Documents, the court cannot ensure the continued confidentiality of such
27 information, or any party or person objects to the procedures set forth in this
28 paragraph, the parties agree to the entry of a temporary sealing order until a

1 motion to seal court records permanently is filed and ruled upon. Any transcript
2 of an *in camera* hearing shall be treated as confidential pursuant to this Order
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4 **VII. USE OF CONFIDENTIAL INFORMATION AT TRIAL**

5 Use of Confidential Information and/or Stamped Confidential Documents at trial
6 shall be determined by subsequent agreement of the parties or an order of court.
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8 **VIII. PROPER USE OF CONFIDENTIAL INFORMATION**

9 Persons obtaining access to Confidential Information and/or Stamped
10 Confidential Documents pursuant to this Order shall use the information for preparation
11 and trial of this litigation only – including appeals and retrials – and shall not use such
12 information for any other purpose, including business, governmental, commercial, or
13 administrative or judicial proceedings. Should any Person wish to attach a Stamped
14 Confidential Document to a Pleading or any like document to be filed of record or
15 served in this case, it must first be brought to the attention of the court that the
16 documents must be filed under seal.

17

18 **IX. NON-TERMINATION**

19 The provisions of this Order shall not terminate at the conclusion of this action.
20 Within 120 days after final conclusion of all aspects of this litigation, all Documents,
21 including Stamped Confidential Documents, and all copies of same (other than exhibits
22 of record), shall be returned to the party or person which produced such documents or,
23 at the option of the Producing Party, destroyed. All counsel of record shall make
24 certification of compliance herewith and shall deliver the same to counsel for the
25 Producing party not more than 150 days after final termination of this litigation.

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1 **X. MODIFICATION PERMITTED**

2 Nothing in this Order shall prevent any party or other person from objecting to
3 discovery that it believes to be otherwise improper or from seeking modification of this
4 Order, including further provisions for categories of Documents requiring heightened
5 protection.

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7 **XI. INADVERTENT DISCLOSURE**

- 8 A. Any inadvertent disclosure of confidential, proprietary, or privileged material will
9 not be construed as a waiver, in whole or in part, of (1) the Producing Party's
10 claims of confidentiality or privilege either as to the specific information
11 inadvertently or unintentionally disclosed or more generally as to the subject
12 matter of the information disclosed, or (2) the party's right to designate the
13 material as confidential pursuant to this Order. A written representation by
14 counsel for the Producing Party that the disclosure was inadvertent shall be
15 deemed *prima facie* evidence of that fact.
- 16 B. The Producing Party shall promptly notify the other party of an inadvertent
17 disclosure following discovery of the inadvertent production, and that other party
18 (i) shall in the case of a privileged Document, return the inadvertently disclosed
19 Document forthwith, as well as any and all copies; or (ii) in the case of a
20 confidential, proprietary Document, shall mark it and all copies, "CONFIDENTIAL
21 – SUBJECT TO CONFIDENTIALITY ORDER." In the event that the other party
22 cannot comply with these requirements – because, for example, the inadvertently
23 produced Document has been given to a third party – the other party shall
24 provide the Producing Party with the name, address, and telephone number of
25 such person(s) as well as the date of and reason for the transmission of the
26 Document.
- 27 C. Notice of inadvertent disclosure shall apply to all copies of the Document
28 inadvertently disclosed including Documents inadvertently produced in cases

1 other than Case No: 2:19-cv-00656-RFB-EJY (such that inadvertent disclosure
2 of a confidential or privileged Document in another jurisdiction shall not constitute
3 a waiver of privilege under this Order.)

4 **STIPULATED AND AGREED TO BY:**

5 Dated this 19 day of May 2020.

6 Hall Jaffe & Clayton, LLP

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9
10 Michael Hall, Esq.
11 7425 Peak Dr.,
12 Las Vegas, NV, 89128,
13 Phone 702-316-4111.
14 Fax 702-316-4114
15 Counsel for Plaintiff,
16 Rodney Hermanson

17 Dated this 19 day of June 2020.

18 Bauman Loewe Witt & Maxwell, LLC

19
20 Michael C. Mills, Esq.
21 3650 N. Rancho Dr., Ste. 114
22 Las Vegas, NV 89130
23 Phone: 702-240-6060
24 Fax: 702-240-4267
25 Counsel for Defendant,
26 Century National Insurance Company

1 EXHIBIT 1

2 UNDERTAKING PURSUANT TO CONFIDENTIALITY ORDER

3
4 STATE OF NEVADA) SS
5 COUNTY OF CLARK)

6 I, Michael Hall, Esq. the undersigned, declare and say:

7
8 1. I am the attorney for Plaintiff Rodney Hermanson. I am employed by Hall
9 Jaffe & Clayton, LLP. My business address is 7425 Peak Dr., Las Vegas, NV, 89128,
10 telephone number 702-316-4111.

11
12 2. I have read and understand the Stipulation of Confidentiality and
13 Protective Order (the "Order").

14
15 3. I understand that I may be receiving Confidential Information and/or
16 Stamped Confidential Documents, as defined in the Order, and by executing this
17 Undertaking I agree to be bound by all the provisions of the Order. I agree not to
18 disclose Confidential Information or Stamped Confidential Documents to any person not
19 entitled to receive it and agree not to use such information except in connection with this
20 litigation.

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22 4 I am informed and understand, and therefore acknowledge, that I may be
23 subject to contempt of court or any other penalties authorized by law or statute if I fail to
24 comply with each of the provisions of the Order.

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26 5. I consent to and accept, generally and unconditionally, the jurisdiction of
27 the U.S. District Court District of Nevada, in the matter entitled Rodney Hermanson v.

1 Century National Insurance Company, Case No.: 2:19-cv-00656-RFB-EJY for the
2 enforcement of the provisions of the Order.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on _____ at _____.

5
6 Declarant
7
8 Subscribed and sworn to before me this
9 _____ day of _____, 2020.
10
11
12 Notary Public
13 My Commission Expires:
14
ORDER
15 The Court having considered the Stipulation of the parties, and good cause
16 appearing, the Court hereby orders the entry of the Protective Order on the terms and
17 conditions provided for above.
18 DATED this 18th day of June, 2020.
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UNITED STATES MAGISTRATE JUDGE